Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of

Application by	)	
SBC Communications Inc.,	)	
Michigan Bell Telephone Company, and	)	
Southwestern Bell Communications	)	WC Docket No. 03-138
Services, Inc. for Provision of	)	
In-Region, InterLATA Services	)	
In Michigan	)	

REPLY DECLARATION OF SHERRY LICHTENBERG

1. I am the same Sherry Lichtenberg who filed a Declaration in this proceeding. I will not reiterate the discussion in my initial Declaration. The purpose of this Reply Declaration is to update the Commission on developments in recent weeks that further show the inadequacies of SBC's OSS in Michigan. In particular, as MCI gains additional experience with line splitting and has further discussions with SBC concerning line splitting, the flaws in SBC's line-splitting process become even more apparent. I will also respond here to some of SBC's *ex parte* filings, and will provide further information to the Commission based on MCI's meeting with Commission staff

Billing/Line Loss Reports

2. Little has changed with respect to billing since my prior Declaration. As I indicated there, it appears that SBC continues to bill MCI for lines that, based on information obtained from SBC, MCI believes are not its lines. MCI identified 487 such lines to SBC, and SBC informed it that most of the problem on these lines resulted from erroneous line loss reports. Most of the erroneous line loss reports for these lines were

sent many months ago, but SBC never informed MCI that the line losses were erroneous. SBC thus continued to bill MCI but MCI did not know to bill the customers.

3. SBC continues to send erroneous line loss reports. As I indicated in my prior Declaration, MCI compared SBC's lines-in-service report to MCI's own databases and found thousands of lines that did not match. MCI has continued to comb through that data, and hopes to send SBC the final results in the next week. It appears clear, however, that SBC continues to send MCI line losses for customers that remain MCI customers. MCI has found dozens of lines that appear to be MCI lines based on the lines-in-service report but for which SBC transmitted line losses in February, March or April of 2003**.**

4. In combing through the data from the April 30 lines-in-service report, MCI also has found that most of the discrepancy between SBC's lines-in-service report and MCI's own data concerns lines for which SBC did *not* transmit a wholesale bill to MCI in May. In other words, SBC's lines-in-service report shows the lines as MCI lines, but SBC did not bill MCI in May for these lines (and MCI's records show the lines as not currently belonging to MCI). While this may indicate the billing problem is not as severe as MCI believed, it also seems to indicate significant continued internal discrepancies in SBC's databases – of the type the reconciliation was designed to correct. If some of SBC's records (its CABS records) show that a customer is not MCI's customer (as MCI's records also show), but other SBC records (those that are the basis of the lines-in-service report) show the customer as belonging to MCI, it is unclear whom SBC is billing for the lines (perhaps some other CLEC?). It is also unclear who SBC believes is responsible for maintenance and repair for the customer.

5. The FCC has asked what percentage of MCI's bills we are disputing. This has varied significantly from month to month. As far as the most recent bills in Michigan are concerned, MCI opened disputes in February amounting to 21% of the charges on its February bill, in March amounting to 31% of its March bill (in part because it opened billing disputes in March related to some prior months), in April amounting to 13% of its April bill, and in May amounting to 14% of its May bill. Much of the disputed amounts relate to disagreements in which SBC contends it is entitled to charge MCI certain rates despite clear provisions in MCI's interconnection agreement showing otherwise. Of course, MCI is not disputing amounts related to lines for which it is being properly billed but for which SBC sent erroneous line losses. MCI should receive compensation for these lines – compensation for which MCI has been waiting for many months – but this is not part of the measured billing disputes.

6. The amounts MCI is disputing remain substantial but reflect some recent improvements based in part on conversations between MCI and SBC on specific billing errors. As I indicated previously, however, it remains to be seen whether these improvements will continue, since most seem to involve retraining of service representatives.

7. The billing disputes have nothing to do with the larger problem of SBC database inaccuracies that sometimes lead it to bill MCI for customers (and usage) that do not appear to belong to MCI based on line loss information transmitted by SBC or based on other information. MCI is only now developing ways to audit these problems. But as stated above, it appears these problems remain significant.

8. SBC's billing metrics do not presently capture the most significant billing problems. The CLECs and SBC are discussing a billing accuracy metric that would be based on the

dollar amounts of adjustments (for errors) or of backbilling on a bill as a percentage of the charges on the bill. So far SBC has not agreed to include backbilling with this metric and has proposed broad exclusions from the metric. SBC has pushed off further discussion of this metric to the six month review. In any event, even this metric would not capture inaccuracies based on erroneous line loss reports, for example. MCI has therefore suggested to SBC that it consider a metric comparing line losses CLECs receive with the lines for which they are billed. SBC expressed some willingness to discuss this, but it remains to be seen what happens.[1]

Line Splitting

9. As MCI continues to talk with SBC about line splitting and to process additional line-splitting orders, new flaws in that process have become apparent: SBC's process for providing hunting to line-splitting customers is discriminatory, and SBC's process for migrating line split customers back to SBC or to other CLECs appears to be discriminatory. In addition, SBC has yet to correct any of the flaws I previously identified. Although SBC appears more willing to fix some of these flaws, its willingness appears directly tied to the regulatory process. It is making its proposals here rather than through change management or through direct discussions with MCI. In any event, SBC has yet to fix the problems.

10. Placement of Orders: SBC's process for ordering line splitting remains deficient because it does not permit CLECs to place a line-splitting order at the same time they are

[1] SBC has also pushed off the six month review a discussion of a metric for how quickly SBC adjusts its rate tables after discovering there is an error. SBC has agreed to a metric measuring timeliness of BCNs, but has proposed a 10 day deadline even though the comparable period in Verizon is two days. In addition, SBC has agreed to a metric measuring how quickly it resolves

placing an initial UNE-P order. Lichtenberg Decl. ¶ 50. Nothing has changed in this regard.

11. Versioning: SBC's process for ordering line splitting remains deficient because SBC does not permit DLECs to place line-splitting orders on behalf of CLECs unless they are on the same version of EDI. Some progress now appears to have been made in resolving this issue, although the date for implementing that resolution is still far off. While at the time of my prior Declaration SBC had not made any commitment to implement a new procedure to fix this problem, SBC says in an *ex parte* here that "[b]arring any unforeseen events," it is now committed to implementing the change to an LSR-based agency arrangement "for March 13, 2004." July 7 *ex parte*. SBC should have made this announcement in the change management process itself. Nonetheless, it is a welcome development. But the "barring unforeseen events" language is not the type of language typically found in change requests. Even without such language, SBC often evades prior commitments to implement change requests by claiming the existence of unforeseen events such as regulatory mandates. The risk that SBC will back away from the March 13 date may be even higher here with the "unforeseen events" language included.

12. In any event, March 13, 2004 is too far away. MCI is using line splitting now. It is important that MCI can easily partner with DLECs, so that it can offer service to more customers. Such partnership is difficult with the current versioning process in place.

13. SBC's recent proposal of a PON-level versioning scheme, which SBC proposes to "target" for implementation in November 2004, is even farther in the future. SBC also has conditioned that versioning scheme on CLEC agreement that SBC would only

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billing claims. But SBC proposes there be no remedies for 6 months and very low remedies

maintain two versions of its interfaces at a time. The proposal therefore has divided the CLECs and may not be implemented.

14. Treatment of Line-splitting Orders As Four Separate Orders: SBC treats each order for line splitting as if it is an order to disconnect the existing loop and port and install a new loop and port – that is to say that it creates four service orders from every LSR submitted for line splitting. This has a number of consequences. It increases the non-recurring charges that the CLEC must pay for line splitting; it makes it more difficult for CLECs to submit trouble tickets; and it leads to loss of dial tone/translation issues. Nothing has changed with respect to the non-recurring charges or trouble tickets issues since I submitted my Declaration.

15. With respect to the loss of dial tone/switch translation issue, SBC says that the initial problems MCI experienced were largely MCI's fault. July 7 *ex parte* at 3. That is not so. As I indicated in my initial Declaration, in addition to the several customers that lost dial tone as a result of MCI errors, there were eight customers who lost dial tone as a result of SBC errors (as of the time of my original declaration). One customer lost dial tone because SBC incorrectly translated the switch port. A second customer lost dial tone because SBC disconnected the port before the installation was completed. A third customer lost dial tone because SBC disconnected the line in error (the customer also lost dial tone a second time because the cutover was done early). A fourth customer lost dial tone because SBC did not test for dial tone at the collocation cage and ran the cross connect to a bad CFA. A fifth customer lost dial tone because SBC ran the cross connect to a working pair as a result of a service order error. A sixth customer lost dial tone

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thereafter.

because SBC provided incorrect CFA information to MCI in a data dump, information which MCI then returned to SBC on the order, and because the service orders completed at the wrong time. A seventh customer lost dial tone because of a bad thermistor cap. Two of these customers were Michigan customers.

16. SBC says that it has implemented a policy that should prevent extended loss of dial tone in the future. *Id*. at 4. The Department of Justice relied on this change in concluding that SBC had resolved the problem. And it does appear that the problem with loss of dial tone has subsided. MCI line-splitting customers are still losing dial tone or experiencing translations issues in some instances, but the problem appears to have diminished. It is too early to determine whether the problem has been resolved, however. It may be that SBC is giving particularly careful attention to MCI's orders while under the 271 spotlight. MCI will continue to watch its orders and evaluate SBC's ongoing performance. In any event, SBC has not resolved the other problems caused by treating line-splitting orders as orders for new loops and ports – the additional charges and the difficulties in submitting trouble tickets. The additional charges are significant and alone warrant rejection of SBC's application.

17. Line Splitting and Hunting: Yet another problem with SBC's line-splitting process has also become apparent in recent weeks. MCI is now in the small business market. Small business customers often want DSL, and they also frequently want hunting (a call to line one hunts to line two if the first line is busy, then on to line three and so on). But under SBC's process, a customer cannot have hunting on a line-split line unless every line in the hunt group has DSL. In other words, if lines one and two do not have DSL, but line three has DSL, calls to the first two lines cannot ring on line three even if the first two

lines are busy. This is because the line with DSL cannot be included in the hunt group due to SBC's decision to make line splitting (in SBC's language the combination of a UNE-port and an xDSL loop) a separate (but clearly unequal) product. This is discriminatory. An SBC retail customer with DSL (either from SBC or in a line sharing arrangement) can include the DSL line in its hunt group.

18. Line-Splitting Customers Who Want to Drop DSL: As I indicated in my initial Declaration, perhaps the biggest flaws in SBC's line-splitting process concern SBC's treatment of CLEC line-splitting customers who want to drop DSL. To begin with, SBC requires the CLEC to submit at least two separate LSRs to drop DSL – one to disconnect the loop and a separate order to disconnect the port and replace it with a UNE-P arrangement. July 9 *ex parte* at 2. And with the two-LSR process, CLECs must submit one of these LSRs via fax. MCI recently tried to use this two-LSR process on a test order in Michigan. (As I indicated in my prior Declaration, MCI had decided that it would not submit disconnect orders at all for DSL customers, but would instead adopt a workaround solution. MCI is now convinced that this workaround cannot work for long, however, and thus decided to try the two-LSR process). MCI found that filling out the faxed LSR alone was a laborious process, requiring input of nearly 30 pages of information. MCI has therefore decided that it will continue testing based on SBC's alternative, automated three-LSR process. This process allows MCI to submit each order electronically, but has the obvious disadvantage of requiring three separate LSRs, which must be linked together by using the related order field.

19. Even more fundamentally, SBC generally installs an entirely new loop for a line-splitting customer who drops DSL. The Department of Justice emphasized its concern with this

process. SBC's failure to reuse the existing loop results in a number of harmful consequences. It increases the rates SBC charges for the order, may require the customer to stay home to wait for a dispatch, and risks extended loss of dial tone for the customer. The one Michigan order that MCI submitted to drop line splitting for a customer resulted in loss of dial tone for several days. And the loss of dial tone problem can be particularly severe if there are no new SBC facilities available. SBC discounts the "no facilities" problem by saying that it will only occur 1% of the time, July 9 *ex parte* at 2, but loss of dial tone for a very extended period of time on 1% of orders is significant, especially since SBC's own DSL customers (line sharing customers) do not face any risk of lost dial tone, as their existing loops are reused.

20. Although SBC has in the past stated that it cannot reuse the existing loop when the customer drops DSL because it does not know if the loop is voice capable, I explained in my initial Declaration why this is not so. SBC's discussion in its *ex partes* further shows that the real reason it does not reuse the existing loop has nothing to do with voice quality. Instead, it is based on the way SBC has designed its process.

21. First, as noted above, SBC requires the CLEC to submit separate LSRs – one to disconnect the loop and another to disconnect the port and replace it with a UNE-P arrangement. July 9 *ex parte* at 2. As a result, if SBC has not yet received the LSR to disconnect the loop when it receives the LSR to install a new UNE-P line, it appears to SBC that the existing loop is already in use and thus is unavailable to use as the UNE-P line. This is so despite the fact that the CLEC does not want a new UNE-P line at all but simply wants to drop DSL on the existing line. That is one reason all other ILECs have created a process in which the CLEC submits only one LSR to drop DSL.

22. Second, despite months of discussions between SBC and MCI in which this was not revealed, SBC states for the first time here that it takes a minimum of five days for it to "disconnect" the xDSL loop because its systems treat the loop as a designed circuit. July 7 *ex parte* at 6 n. 13; July 9 *ex parte* at 2. Thus, absent a "manual override[]," SBC's systems preclude it from disconnecting the existing loop and reusing it for UNE-P unless 5 days have passed from receipt of the disconnect order. If the LSR to install a new UNE-P line is processed less than 5 days after receipt of the LSR to disconnect the existing loop, SBC cannot reuse the existing loop. Again, however, this is simply an artifact of SBC's decision to treat the order to remove DSL as an order to disconnect the existing loop and port and install a new UNE-P arrangement, rather than as a simple order to rearrange central office wiring to remove DSL from the line. It is also an artifact of SBC's decision to treat the loop being disconnected as a designed circuit and to require five days for that disconnection. There is absolutely no need to require a five day minimum to disconnect an xDSL capable loop (even if such disconnection were required, and it is not). The five day minimum means the CLEC is billed for additional time using the loop and means that SBC will not reuse the loop to provide voice to the end user.

23. Third, SBC often will not reuse the existing loop even if the loop has been returned to the loop inventory by the time the order to disconnect the port and install a new UNE-P arrangement is processed. In such circumstances, the loop will only be reused if SBC's Loop Facility Assignment and Control System (LFACs) selects the existing loop based on its "loop selection and assignment process." July 7 *ex parte* at 6. There is nothing in that process that creates any presumption that the existing loop should be reused; indeed, LFACs does not maintain historical information on the customer to show which loop has

been used up until now to serve the customer. July 7 *ex parte* at 5. SBC does not say what percentage of time LFACs will choose the existing loop. July 9 *ex parte* at 1. But the problem is again a direct result of SBC's process. If SBC did not treat the order to drop DSL as including an order for a new loop, it would not require LFACs to search among available loops for a loop to use. Rather, SBC would automatically reuse the existing loop without the need for any lookup in LFACs.

24. Thus, SBC's failure to reuse existing loops is an artifact of the way it has designed its process. SBC suggests that it made sense to design its process this way to protect voice quality because the xDSL-capable loops might have been conditioned. SBC says that 8.31% of xDSL-capable loops provisioned in April and 5.83% provisioned in May were conditioned. July 9 *ex parte* at 1. But these numbers are deceptively high. MCI is not aware of any CLEC placing line-splitting orders before May when MCI began doing so and MCI placed very few such orders in May. Thus, most of the orders submitted for xDSL-capable loops in April and May were likely for loops used for IDSL or for other DSL products in which voice would not be provided on the lines. On such loops, CLECs might well have wanted conditioning even if it degraded voice service because there would be no voice service. But CLECs would not want conditioning on line-split loops if it degraded voice service, and it is likely very rare that CLECs would ask for such conditioning. MCI, for example, does not ask for conditioning on any lines used for line splitting even though the reality is that the only conditioning that would affects voice quality is removal of load coils. MCI also has told SBC it will accept the same policy for line splitting as SBC uses for line sharing – that is SBC will not condition a loop if it would degrade voice quality. MCI does not want degraded voice quality on its line-split

loops. And such a policy would allow SBC to remove DSL from a line without any fear that doing so would degrade voice quality. SBC has not responded to MCI's offer.

25. In any event, if the conditioning ordered by the CLEC had a significant effect on voice quality, the CLEC that ordered the CLEC would likely have already faced and resolved complaints from its customers. Perhaps if service continued to be degraded, the CLEC would want a different loop to be used when the customer moved back to UNE-P. If so, the CLEC could then place separate orders to disconnect the existing facilities and to install new facilities. But that would be the CLEC's choice. SBC should not force all CLECs to obtain new loops in every instance when they want DSL removed from a line simply to improve voice quality on a small subset of those loops. This is not up to SBC. Moreover, the disadvantages of doing so far outweigh the benefits.

26. And even if it were up to SBC to ensure voice quality on the loop when the customer moved back to UNE-P, SBC could do so by limiting use of new loops to those circumstances in which the loops had been conditioned in a way that would impact voice quality (*i.e.,* when load coils were removed). SBC could implement such a process in a number of different ways. For example, it could enable CLECs to submit a single LSR to remove DSL for a line-splitting customer and, then, when it received such an LSR, do a lookup in the database that contains information on line conditioning to determine whether load coils had been removed. Only if load coils had been removed would a new loop be used. Although SBC says that its *systems on loop characteristics* do not contain historical information about the loop, clearly the databases used to process loop conditioning orders must retain data on whether SBC received LSRs for loop conditioning.

27. Alternatively, if SBC designed its process to allow a single LSR to remove DSL from a line-splitting customer, it could take the information on that LSR that showed what loop the customer was currently using, look up that loop in LFACs or other databases with loop characteristics to determine whether the loop characteristics were suitable to provision of voice. Only if they were not, would SBC direct LFACs to look for a different loop. Finally, even without a preliminary database lookup, SBC could ensure reuse of the existing loop when warranted by including in LFACs the historical information on what loop the customer was currently using and inserting logic into LFACs that directed it to choose the existing loop unless it was unsuitable for voice.

28. All other ILECs have adopted processes that enable CLECs to submit a single LSR to disconnect DSL for line-splitting customers without installation of a new loop. SBC could easily do so as well. Indeed, it seems to have resolved the "problem" of voice quality for line-sharing customers who disconnect DSL, and could use the same policy for line-splitting customers without extensive development. Its decision not to resolve the problem is purely anticompetitive. It seems very unlikely that there is anything in SBC's systems that make it more difficult for it to remove DSL without use of a new loop than it is for other ILECs. After all, SBC's back-end systems were developed by different legacy companies (Southwestern Bell, Pacific Bell, Ameritech) and yet SBC uses the same excuses with respect to all of them. It is hardly likely that these systems all had some problem that does not exist in any other ILEC region.

29. Indeed, SBC seems to acknowledge that it may be possible to adopt a single LSR process in which the existing loop is reused. July 7 *ex parte* at 6; July 9 *ex parte* at 2. SBC says that it will work with CLECs to find a mutually acceptable solution. But as I made clear

in my initial declaration, MCI has made its requests repeatedly for several months and has not received any positive response to date. Although SBC finally met with MCI to on June 25 to discuss MCI's request, it gave MCI no indication of a willingness to change its processes. That remains true. SBC has not yet even provided MCI with written answers to the questions that MCI submitted in writing prior to the June 25 discussion even though SBC committed to providing written responses. It certainly has not come back directly to MCI or through change management and proposed to alter its process. The discussion in its *ex parte* filings is the only information MCI has on any possibility of a different process. As usual, it is only the 271 process that appears to be providing an incentive for any movement on these issues, and SBC has decided to provide proposals only through that process.

30. But SBC's "commitment" to a more effective process is riddled with caveats about cost recovery, and systems modification and does not include any proposed date for implementation of a new process or a clear description of its proposed process. SBC also suggests that the process it has in mind would likely only ensure use of the existing loop 90% of the time. July 9 *ex parte* at 3. But there is no reason for use of a loop other than the existing loop with the possible exception of those few loops for which load coils have been removed.

31. SBC also says that it will only implement a new process if CLECs agree that the performance measures applicable to loop provisioning and maintenance and repair would not be applicable to these loops. *Id*. MCI will need to discuss this with SBC, but our first reaction is that this is absurd. SBC has not limited its proposed exemption to those few loops that have been conditioned in such a way as to change their voice characteristics;

SBC is proposing to exempt all loops that were used for line splitting. But the vast majority of these loops are the same loops that were being used for retail service and then used for UNE-P voice service before being used for line splitting and that have not changed in any relevant respect. There is no reason whatsoever to exempt these loops from performance metrics. No other ILEC has exempted any loops from performance metrics based on their status as former-line-split loops.

32. SBC also indicates that implementation of a new process may require contract amendments. SBC does not explain why this is so. But MCI's past experience with SBC is that every contract amendment requires protracted negotiation as SBC attempts to extract concessions in exchange for amendments to which MCI is already entitled.

33. In any case, the fact is that SBC should never have implemented its overly complex, expensive process for removing DSL from line-splitting customers in the first place. All other ILECs managed to get it right the first time. SBC's failure to do so causes significant harm to CLECs in the increasingly important DSL market. Until SBC gets it right, it should not be permitted to provide long distance service.

34. E911: SBC's accessible letters to CLECs regarding E911 updates for line-splitting customers remain somewhat of a mystery. As SBC acknowledges, its initial accessible letter on the E911 process for line-splitting customers caused confusion. SBC therefore sent a "clarifying" letter. (CLECAM03-249). But that letter is almost equally oblique. One thing the new letter does appear to clarify is that CLECs do not need to take any action to update the E911 database as a result of MSAG changes. Even this remains unclear, however, because when MCI asked SBC in meetings to confirm that CLECs would not have to take any action based on MSAG changes, SBC said that it would have

to check and get back to MCI. Presumably, this only demonstrates the lack of knowledge of the personnel SBC sends to meet with MCI, rather than that CLECs do need to take actions based on MSAG changes. But this remains uncertain.

35. Moreover, SBC's second accessible letter says that it was "intended to ensure that CLECs recognized the need to provide updated end-user service address information based upon a change in the customer's physical service address in connection with a rearrangement" of UNEs in the line-splitting arrangement. It remains unclear to MCI what scenarios SBC has in mind, however. If a customer moves, MCI would have to submit a move order, so that SBC would move the customer to a new loop, which would already notify SBC of the need to update the customer's address. There would seem to be no need for a second LSR to tell SBC to update the E911 records.

36. MCI spent twenty minutes at its most recent meeting with SBC on line-splitting attempting to clarify the meaning of the accessible letter and when a CLEC would have to send an LSR to update the E911 database. SBC was unable to clarify when this would be necessary or even to provide an example of when it would be necessary. SBC also was unable to say what sort of LSR MCI would have to send to update the E911 database. Part of the problem may be that SBC did not have an expert at the meeting who was familiar with the former Ameritech region. Indeed, at none of the MCI/SBC meetings on line splitting has SBC sent an expert on the former Ameritech region. And its experts from other regions have been quick to specify that they have no expertise on the Ameritech region.

37. These possible regional differences are another source of confusion. Although SBC has sent two accessible letters related to E911 updates in the former Ameritech region, it has

not sent any similar letters for the SWBT or SNET regions even though the line-splitting process in those regions appears very similar to that in the former Ameritech region. When MCI asked SBC about this, SBC said that their product teams were still working on what the letters should say in the SWBT and SNET regions. This may show that there will be regional differences for no apparent reason. Or it may further show that SBC has not yet figured out even the basics of the line-splitting process.

38. Another problem with SBC's process for E911 updates for line-splitting customers is that CLECs have no visibility into the E911 database to determine if it is correct. The E911 records are "locked" as SBC records. Only SBC has visibility into the database. MCI would have no problem with this if SBC treated the line-splitting customers as UNE-P customers for whom MCI also lacks such visibility. (Lack of visibility into E911 records is not a problem for UNE-P customers because there are no changes made to the E911 database as a result of the customer's UNE-P migration to a CLEC.) But because SBC treats each line-splitting order as consisting of an order to disconnect the old loop and port and connect a new loop and port, there are real risks that the database might be accidentally changed in the process. Ordinarily, orders for new loops and ports result in creation of new E911 database entries. Thus, with UNE-L orders, CLECs ordinarily have visibility into the E911 database to determine whether the entries are correct. But with line-splitting, SBC does not provide such visibility. Thus, while in every other respect SBC treats a line-splitting order as including an order for a new loop and port, it does not do so with respect to establishing visibility into the E911 database. SBC could therefore be making significant errors without CLECs being aware of them.

39. Migration of Line-splitting Customers Away From CLECs: Two additional problems with line splitting have become apparent since I filed my initial Declaration. One is the hunting problem I discussed above. A second is even more troubling. For line-splitting customers who want to migrate back to SBC, SBC's process appears blatantly discriminatory. I should caution, however, that the following discussion is based in part on suppositions. Although MCI has asked SBC a number of questions about the process of migrating line-splitting customers back to SBC, SBC has been unable to provide clear answers to those questions. Once again, SBC appears not to have thought through line-splitting processes at all.

40. From what MCI can tell, SBC's process for migrating customers with line-splitting arrangements back to SBC or to other CLECs appears blatantly discriminatory. MCI has received line loss notifications for customers who are MCI line-splitting customers. This tells MCI that the customers have migrated back to SBC. But the customers themselves never contacted MCI to request that DSL be removed on their lines.

41. This suggests that SBC has made it far easier for a line-splitting customer to migrate back to SBC then it is for an SBC retail customer with DSL to migrate to a CLEC. If a CLEC submits a UNE-P migration order for an SBC retail customer with DSL, SBC will reject the order. The CLEC will then have to tell the customer that the customer must first ask his DSL provider (whether SBC or a DLEC) to disconnect the DSL before the customer can migrate to the CLEC. This may deter customers from moving to the CLEC. In contrast, however, it appears that when a CLEC customer with DSL as part of a line-splitting arrangement wishes to migrate back to SBC, SBC will migrate the customer back to SBC immediately. SBC will not require the customer first to call the DLEC to

disconnect the DSL. This makes it easier for a customer to move back to SBC then to migrate away from SBC. It is therefore highly anti-competitive.

42. Moreover, if it is correct that a customer can migrate back to SBC without first connecting his DSL, this means that the migration occurs while the customer's existing loop remains cross connected to the DLEC's splitter and may also remain connected to the customer's inside wiring. SBC has said it installs an entirely new loop when the customer migrates back to SBC. (It is unclear to MCI that this is so, however, because if SBC were installing a new loop without disconnecting the existing loop, it is unclear what would have triggered the line losses MCI received.) SBC has told MCI that since it is installing a new loop without disconnecting the old loop, the customer might still be receiving DSL from MCI on one loop while receiving voice from SBC on the other. MCI does not understand how this would be the case, however, if the customer has retained his existing phone number in switching voice service back to SBC. In any event, in migrating back to SBC, the customer clearly did not expect to end up with SBC voice on one line and MCI DSL on another. Thus, MCI will presumably need to stop billing the customer for DSL.

43. But it appears that SBC will continue to bill MCI for the DSL line because MCI has not transmitted a disconnect order on that line, thus collecting revenue from MCI for a line MCI presumably cannot bill to the customer. Moreover, it will be somewhat difficult for MCI even to know that it should submit a disconnect order on the loop. MCI will have to figure out how to segregate out line losses for line-splitting customers, so that it knows that on these lines, it must not only stop billing the customers for voice but also must submit a disconnect order for the DSL line so that SBC stops billing it. This is a much

more difficult process than MCI faces in other ILEC regions or in the SBC region for other migrations back to SBC. In those instances, the migration automatically stops all wholesale billing. It is also a more difficult process than SBC faces when a line sharing customer migrates to a CLEC. In that case, the customer must stop SBC DSL before the migration, so the DSL does not remain up. Once again then, SBC's refusal to treat the line-splitting customer as a UNE-P customer appears to be creating a significant stumbling block for CLECs.

44. It also appears that SBC has no process for a line-splitting customer of one CLEC to migrate to line splitting with another CLEC. This will become an increasingly important order type.

45. SBC's line-splitting process therefore remains beset with problems that warrant rejection of SBC's application.

Change Management

46. As I noted in my initial Declaration, SBC's change management process has completely broken down in two critical respects: its releases are riddled with defects and documentation errors, and it is failing to implement critical change requests initiated by CLECs.

47. The magnitude of the problem with defects and documentation errors is evident from the fact that to MCI's knowledge not a single CLEC has yet moved to SBC's Release 6.0, which was implemented on June 14, 2003. MCI has asked other CLECs and not found any that have migrated to 6.0. It seems that this is because CLECs understand how many problems SBC's releases have when initially implemented. The difficulty, however, is that if all CLECs wait to implement a new release, then there will be no one to iron out

the problems with that release before CLECs must migrate to it (or to an even newer release).

48. Even though MCI is not aware of any CLECs who have moved to Release 6.0 and even though it is CLECs who usually discover most of the flaws in SBC's releases, SBC already has announced a startling number of defects in the releases – just as it has in prior releases. As I indicated in my initial Declaration, as of July 1, 2003, SBC already had reported 53 defects from Release 6.0. In subsequent weeks, SBC has announced one additional defect and also placed three defects back on the defect log that it had previously removed as having been fixed (the label on the log says, "fixed return retest"). Again, let me emphasize that all of these defects have been found before CLECs even begin using Release 6.0. I also want to note that SBC has placed 26 total defects back on the log in the fixed return retest category (23 of which pertain to Release 5.01 or 5.02). In other words, SBC appears to be finding that it has not fixed problems it previously told CLECs it had fixed.

49. A comparison demonstrates the magnitude of SBC's problems. In release 13.0 in BellSouth, which was implemented on June 21-22, BellSouth had reported 5 defects as of July 2, 2003. Release 13.0 was a big release with 72,400 release cycle hours. Release 13.0 appears to be as big or bigger than Release 6.0 in SBC, although it is hard to tell for sure because SBC does not provide any information on release capacity.

50. A comparison with BellSouth also underscores just how reluctant SBC has been to implement CLEC change requests. As I noted in my initial Declaration, there are scores of change requests (and requests in the User's Forum) that CLECs have submitted to SBC but that SBC either has not yet approved or has not yet slated for a release – even

though these requests were made years ago. These include many change requests that are very important to MCI. Yet SBC is making little progress towards their implementation.

51. BellSouth had similar problems, as MCI documented extensively during the 271 process in that region. Nonetheless, while BellSouth continues to have significant problems in implementing CLEC change requests, its performance is better than SBC's. During the section 271 process, BellSouth agreed to provide CLECs with information on the release capacity that would be absorbed by change requests and to devote 50% of release capacity not used for industry standards or defect-resolution to CLEC changes. BellSouth also agreed to metrics measuring whether BellSouth accepted or rejected CLEC change requests within 10 days, measuring the number of rejected requests, and measuring the percentage of approved change requests implemented within 60 weeks of their acceptance. *BellSouth Five State Order* ¶¶ 182, 184, 197. Although there remain significant problems with the BellSouth change management process, BellSouth appears to be on course to comply with the 60 week metric and appears also to be complying with the metric that measures whether it accepts or rejects change requests within 10 days of receiving them. As of July 9, 2003, the CLEC-initiated change requests that were awaiting acceptance of rejection from BellSouth or that had been accepted but had not yet been slated for a release were generally recent requests. Older requests have generally been implemented or scheduled for implementation in time to meet the 60 week deadline. In contrast**,** at present pace, SBC will not implement even all of the CRs that are currently outstanding for at least another two years (it has only implemented 22 CLEC-initiated change requests that affect the former Ameritech region in the past year) – and many of

these CRs already have been outstanding for years. This is one more area in which SBC must improve before obtaining section 271 authorization.

Conclusion

52. This concludes my Declaration on behalf of MCI.